

KCC 4742 (K-C 14,442A)
PATENT

REMARKS

Claims 1-7, 12-19, 24-28, and 35-42 have been amended herein in this Amendment A to more particularly claim the invention. After entry of this Amendment A, claims 1-42 will be pending in this case. No new matter has been added by these amendments.

As discussed more thoroughly below, Applicants assert that the Tyrell et al. reference (U.S. No. 2002/0136755) cited by the Office is not prior art under 35 U.S.C. 103(a) against the present invention as asserted by the Office. In support of this assertion, Applicants are enclosing herewith the Notice of Recordation and Assignment for the Tyrell et al. reference indicating the assignment to Kimberly-Clark, along with the Notice of Recordation and Assignment for the instant application indicating the assignment to Kimberly-Clark. Applicants respectfully request reconsideration and allowance of all pending claims.

1. Rejection of Claims 1-7, 12-19, 24-28, and 35-42 Under 35 U.S.C. §112, Second Paragraph

Reconsideration is requested of the rejection of claims 1-7, 12-19, 24-28, and 35-42 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Office states that the phrase "Yucca sp." is indefinite, as it is unclear to what the "sp." is referring.

"Yucca sp." is used as an abbreviation for "Yucca species." In accordance with the Examiner's suggestion, claims 1-7, 12-19, 24-28, and 35-42 have been amended to replace "Yucca sp." with "Yucca species."

KCC 4742 (K-C 14,442A)
PATENT

2. Rejection of Claims 1-6, 12-18, 25-28, and 33-42 Under
35 U.S.C. §103(a)

Reconsideration is requested of the rejection of claims 1-6, 12-18, 25-28, and 33-42 under 35 U.S.C. § 103(a) as being unpatentable over Tyrell et al. (US 2002/0136755) in view of Palumbo et al. (US 2003/0035785).

Applicants are not substantively responding to this rejection as Applicants assert that the Tyrell et al. reference is not prior art against the pending patent application under 35 U.S.C. §103(a). The Tyrell et al. reference cited by the Office has a priority date of December 22, 2000 based on its 35 U.S.C. §102(e)(1) application date.¹ However, as stated in 35 U.S.C. § 103(c), prior art which qualifies only under subsection (e) of section 102 does not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The Tyrell et al. reference has been assigned to Kimberly-Clark Worldwide, Inc. Furthermore, the instant application has also been assigned to Kimberly-Clark Worldwide, Inc. As evidence of these assignments, enclosed herewith is the following: (1) The Notice of Recordation of Assignment Document and Assignment for the Tyrell et al. reference, which sets forth that all inventors of this reference have assigned their rights to Kimberly-Clark Worldwide, Inc.; and (2) the Notice of Recordation of Assignment Document and Assignment for the instant application indicating that all inventors have assigned their rights to Kimberly-Clark. As such,

¹35 U.S.C. 102(e)(1) applies to an invention described in "an application for patent, published under § 122(b), by another filed in the United States before the invention by the applicant for patent...."

KCC 4742 (K-C 14,442A)
PATENT

Applicants assert that Tyrell et al. cannot be a proper basis of rejection of the claims of the present application as Tyrell et al. cannot be considered as prior art.

Because Tyrell et al. is cited improperly as prior art, this rejection under 35 U.S.C. 103(a) is improper and should be withdrawn. As such, claims 1-6, 12-18, 25-28, and 33-42 are patentable over Tyrell et al. in view of Palumbo et al.

3. Rejection of Claims 7-11, 19-23, and 29-32 Under 35 U.S.C. §103(a)

Reconsideration is requested of the rejection of claims 7-11, 19-23, and 29-32 under 35 U.S.C. § 103(a) as being unpatentable over Tyrell et al. in view of Palumbo et al., and further in view of Henderson (U.S. 6,228,265).

For the reasons stated above, Tyrell et al. has been improperly cited as prior art against the instant case under 35 U.S.C. § 103(a). Because Tyrell et al. is cited improperly as prior art, this rejection under 35 U.S.C. 103(a) is improper and should be withdrawn. As such, claims 7-11, 19-23, and 29-32 are patentable over Tyrell et al. in view of Palumbo et al, and further in view of Henderson.

KCC 4742 (K-C 14,442A)
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In view of the above, applicants respectfully request favorable reconsideration and allowance of all pending claims. The Commissioner is hereby authorized to charge any fee deficiency in connection with this Letter to Deposit Account Number 19-1345 in the name of Senniger, Powers, Leavitt & Roedel.

Respectfully Submitted,



Christopher M. Goff, Reg. No. 41,785
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CMG/JXB/dmt

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Washington, D.C. 20231

JUNE 05, 2001

PTAS

KIMBERLY-CLARK WORLDWIDE, INC.
ALYSSA A. DUDKOWSKI
401 NORTH LAKE STREET
NEENAH, WISCONSIN 54956



101655376A

16142

HAD/BM

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

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RECORDATION DATE: 03/06/2001

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BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

TYRRELL, DAVID JOHN

DOC DATE: 01/03/2001

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BUHROW, CHANTEL SPRING

DOC DATE: 01/03/2001

ASSIGNOR:

LANGE, BETH ANNE

DOC DATE: 01/03/2001

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KRZYSIK, DUANE GERARD

DOC DATE: 01/03/2001

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BROCK, EARL DAVID

DOC DATE: 01/04/2001

ASSIGNOR:

CAHALL, JAMES LOUIS

DOC DATE: 01/04/2001

ASSIGNOR:

LIN, SAMUEL QCHENG

DOC DATE: 02/05/2001

011630/0482 PAGE 2

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DOC DATE: 02/14/2001

ASSIGNOR:
SANTHANAN, UMA

DOC DATE: 01/16/2001

ASSIGNEE:
KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WISCONSIN 54956

SERIAL NUMBER: 09747382
PATENT NUMBER:

FILING DATE: 12/22/2000
ISSUE DATE:

ANTIONE ROYALL, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

FORM PTO 1585
1-31-82

04-02-2001

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office
Docket No. 16,142

101655376

3-12-01

To the Honorable Commissioner of
or copy thereof.

Filed original documents

1. Name of conveying party(ies):

David John Tyrrell, Chantal Spring Buhrow, Beth Anne
Lange, Duane Gerard Krzyak, Earl David Brock,
James Louis Cahall, Samuel Qicheng Lin, Ronni Lynn
Weinkauff, Uma Santhanan

2. Name and address of receiving party(ies):

Name: Kimberly-Clark Worldwide, Inc.Internal Address: 401 North Lake Street
Neenah, Wisconsin 54956Additional name(s) of conveying party(ies)
attached? ☐ Yes ☒ NoStreet Address: 401 North Lake Street
City Neenah State Wisconsin Zip 54956

3. Nature of Conveyance

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ OtherAdditional name(s) & address(es) attached?
☐ Yes ☒ NoExecution Date: 1/3/01, 1/4/01, 1/16/01, 2/5/01, 2/14/014. Application number(s) or patent number(s): Unknown. New Application entitled "ABSORBENT ARTICLES WITH NON-AQUEOUS COMPOSITIONS CONTAINING BOTANICALS"

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s) 09/747,382

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No5. Name and address of party to whom correspondence
concerning document should be mailed:Name: Alyssa A. DudkowskiInternal Address: Kimberly-Clark Worldwide, Inc.
401 North Lake Street
Neenah, Wisconsin 54956Street Address: 401 North Lake Street
City: Neenah State: Wisconsin Zip 549566. Total number of applications and patents involved: 17. Total fee (\$7 CFR 3.41) \$ 40.00☐ Enclosed☒ Authorized to be charged to deposit account.8. Deposit account number: 11-0875

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9. Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Alyssa A. Dudkowski
Name of Person SigningAlyssa A. Dudkowski Reg. No. 40,596 March 6, 2001
Signature DateTotal number of pages including cover sheet, attachments and document: 3

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In U.S. United States Patent and Trademark Office

Applicants:	David John Tyrrell et al.	Docket No.:	16,142
Serial No.:	09/747,362	Group:	1615
Filed:	December 22, 2000	Examiner:	Unknown
For:	ABSORBENT ARTICLES WITH NON-AQUEOUS COMPOSITIONS CONTAINING BOTANICALS		

Assignment -- Joint Inventors

ASSISTANT COMMISSIONER OF PATENTS
Washington, D.C. 20231

Sir:

WHEREAS David John Tyrrell residing at 415 South Olde Oneida Street, Apartment 318, Appleton, Wisconsin 54911; Chantel Spring Buhrow residing at N6448 State Road 49, Weyauwega, Wisconsin 54983; Beth Anne Lange residing at 415 South Olde Oneida Street, apartment 319, Appleton, Wisconsin 54911; Duane Gerard Krzysik residing at 1112 E. Malrose Avenue, Appleton, Wisconsin 54911; Earl David Brock residing at 645 Highview Lane, Kimberly, Wisconsin 54136; James Louis Cahall residing at N241 Woodstock Lane, Appleton, Wisconsin 54915; Samuel Qcheng Lin residing at 76b Brown Circle, Paramus, New Jersey; Ronni Lynn Weinkauff residing at 535 Prospect Avenue, Oradell, New Jersey 07649 and Uma Santhanan residing at 14 North Browning Avenue, Tenafly, New Jersey 07670 (hereinafter collectively referred to as Assignors), have made an invention and have each either (1) previously executed an application for Letters Patent of the United States of America therefor or (2) are contemporaneously executing an application for Letters Patent of the United States of America for the invention which is entitled:

ABSORBENT ARTICLES WITH NON-AQUEOUS COMPOSITIONS CONTAINING BOTANICALS

AND WHEREAS Kimberly-Clark Worldwide, Inc., a corporation of the State of Delaware, having offices at 401 North Lake Street, Neenah, Wisconsin 54956, United States of America, (hereinafter referred to as Assignee), is desirous of acquiring the entire right, title and interest in and to said invention and under said Letters Patent or similar legal protection to be obtained therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that in consideration of the payment by the Assignee to the Assignors of the sum of One U.S. Dollar (\$1.00 U.S.) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignors hereby sell, assign and transfer to the Assignee the full and exclusive right, title and interest to said invention and in and to any and all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, continuation-in-part, divisional, renewal, substitute, re-examination, conversion or reissue thereof, including all extensions thereof, or any legal equivalent thereof in any foreign country for the full term or terms for which the same may be granted, including any and all convention rights.

The Assignors hereby covenant that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment and sale.

The Assignors further covenant that the Assignors will promptly provide, upon written request, Assignee with all pertinent facts and documents relating to said application, said invention and said Letters Patent and legal equivalents in foreign countries as may be known and accessible to the Assignors and that they will promptly execute and deliver to Assignee or its legal representatives any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue, extend and enforce said application, said invention and said Letters Patent and said equivalents thereof in any foreign country which may be necessary or desirable to carry out the purposes thereof.

KC 16,142

IN WITNESS WHEREOF, the Assignors have executed this document on the date indicated below:

David John Tyrnell Date: January 3, 2001
David John Tyrnell

Chantel Spring Buhrow Date: 01-03-01
Chantel Spring Buhrow

Beth Anne Lange Date: January 3, 2001
Beth Anne Lange

Duane Gerard Brzysik Date: 01/23/01
Duane Gerard Brzysik

Earl David Brock Date: 01/04/01
Earl David Brock

James Louis Cahall Date: January 4, 2001
James Louis Cahall

Samuel Qcheng Lin Date: 01/05/01
Samuel Qcheng Lin

Ronni Lynn Weinkauff Date: 2/14/01
Ronni Lynn Weinkauff

Uma Santhanam Date: 1/16/01
Uma Santhanam